

REMARKS

The Examiner's attention to the present application is noted with appreciation. The specification and abstract have been amended in response to the Examiner's objections in paragraphs 1 and 2 of the Office Action. In addition, Claims 1 and 15 have been amended in response to the Examiner's rejections of the claims under 35 U.S.C. 112 as being indefinite. In the aforementioned amendments, missing percentage signs have been inserted, and all trademarks have been capitalized, marked with the "®" symbol, and supplemented with their chemical compositions. Such objections and rejections are thus respectfully traversed.

In Section 6 of the Office Action, The Examiner rejects claims 1-4, 8, and 10-20 under 35 U.S.C. 103(a) as being unpatentable over Pirig et al. (U.S. Patent 6,054,513) in view of Gabbay (U.S. Patent 5,102,726). In Section 13 of the Office Action, the Examiner rejects claims 1-20 under 35 USC § 103(a) as being unpatentable over Hill, Jr. (U.S. Patent 5,225,464) in view of Pirig et al. in further view of Gabbay. In Section 18, the Examiner rejects claims 1-5 and 8-20 under 35 USC § 103(a) as being unpatentable over Liu (U.S. PG Pub. 2004/0110870) in view of Gabbay. In Section 23 the Examiner rejects claims 1-20 under 35 USC § 103(a) as being unpatentable over Scholz et al. (U.S. Patent 5,749,948) in view of Gabbay. Such rejections are respectfully traversed, particularly as to the claims as amended. None of the cited references disclose a fire-retarding powder which impregnates a cloth fabric. Neither Pirig et al., Hill, Jr., Liu, nor Scholz disclose a fabric or cloth substrate at all. Gabbay specifically discloses a composite structure wherein fire retardant material layers are separated from a textile substrate by adhesive layers. In contrast, in the claimed embodiment of the present invention, the additive powder is impregnated in the fabric. Support for this limitation may be found in the present application in paragraph [0079]: the additive powder is held "on and within a cloth fabric" by an adhesive binder, as well as paragraph [0100]: "a cloth fabric impregnated with the fire-retarding powder". Thus, since all the claim limitations are not taught or suggested by the prior art, *prima facie* obviousness has not been established per MPEP § 2143.03.

In Sections 11, 12, 16, 17, 21, 22, 26, and 27 of the Office Action, the Examiner rejects claims 18-20 as the presence of process limitations on product claims, in which the product does not otherwise patentably distinguish over prior art, cannot impart patentability to the product. Because independent

claim 1 as amended is now patentable over the prior art, and because any of the application processes claimed in claims 18-20 result in the powder impregnating the fabric, applicant respectfully asserts that claims 18-20 are now patentable.

In Section 28, the Examiner rejects Claims 1-20 under 35 USC § 102(e) as being anticipated by Hallissy et al. (US PG Pub 2004/0054035). Such rejection is respectfully traversed. Hallissy et al. do not disclose a fabric, cloth, or textile substrate of any kind, and thus do not anticipate the present invention, which requires an additive powder which impregnates a cloth fabric. See MPEP §2131: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)."

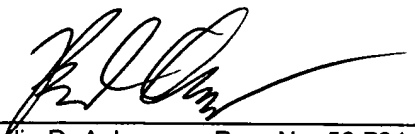
In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection and objection have been avoided and/or traversed. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

Also being filed herewith is a Petition for Extension of Time to September 12, 2005, which is the first business day after September 10, 2005, with the appropriate fee. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213. A duplicate of this paper is enclosed for accounting purposes.

Respectfully submitted,

By:


Philip D. Askenazy, Reg. No. 56,721
Direct line: (505) 998-6132

PEACOCK MYERS, P.C.
Attorneys for Applicant(s)

P.O. Box 26927
Albuquerque, New Mexico 87125-6927

Telephone: (505) 998-1500
Facsimile: (505) 243-2542

G:\AMDS\Avtec\AVTEC 239 Fabric OA.doc